

REMARKS

The application identified above has been amended in response to the Office Action dated April 1, 2004. Claims 31-33 have been cancelled. Claims 1, 6, 22, 29, 30 and 34 have been amended to further emphasize patentably distinguishing features of the invention, and to provide Applicant with the full scope of protection to which he deems his invention is entitled. For example, claim 1 has been amended to recite, among other things, 1) a feed hopper having a filling end and a feeding end, wherein the filling end has a cover having an access door opening; 2) an upwardly extending lip placed around at least a portion of the perimeter of the access door opening; 3) a lid having open and closed positions to open and close off the access door opening, respectively; 4) an edge member joined to the edge of the lid to extend around at least a portion of the lip when the lid is in its closed position, the edge member having a gap formed therein so that the lip extends above the gap when the lid is in its closed position.

Support for the amendment can be found in the claims and in the specification, particularly, paragraphs [0024] and [0025], and Figures 3(a)-3(c). For example, paragraph [0025] specifically recites that "FIGS 3b and 3c depict the breathable lid 34 in the closed position. The legs 38 rest against the filling end 14 and slightly elevate the breathable lid 34, thereby creating a gap 39. The gap allows air to circulate within the hopper 12 but an inner lip 41 prevents rain and other elements from entering the hopper 12. The inner lip may be plate steel welded around the perimeter of the access door 32."

Applicant submits that the claims as amended are allowable over the cited references. As such, Applicant respectfully requests allowance of these claims.

Rejections Under 35 U.S.C. § 103

The Examiner has rejected claims 1, 6-8, and 22-29 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 5,740,757 to Smeester (hereinafter, "Smeester") in view of U.S. Pat. No. 2,619,252 to Hoffman (hereinafter, "Hoffman"), U.S. Pat. No. 5,339,996 to Dubbert et al. (hereinafter, "Dubbert") and U.S. Pat. No. 2,886,002 to O'Malley (hereinafter, "O'Malley"). In addition, Claims 30-32 and 34-36 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Smeester in view of Dubbert et al. and O'Malley. Claim 33 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Smeester in view of Dubbert and O'Malley and further in view of Hoffman.

Applicant submits that the claims are not obvious over the cited references, as described more fully below, and requests that the rejections be withdrawn. With respect to the applicability of the rejections to claims 31-33, Applicant submits that the rejection is rendered moot, as claims 31-33 have been cancelled.

As the Examiner is aware, all of the claim limitations must be taught or suggested by the prior art in order to establish *prima facie* obviousness under 35 U.S.C. § 103. Applicant submits that even if the references are combined, the combined references do not recite all of Applicant's claim limitations. For example, none of the references (alone, or in combination) recite 1) a feed hopper having a filling end and a feeding end, wherein the filling end has a cover having an access door opening; 2) an upwardly extending lip placed around at least a portion of the perimeter of the access door opening; 3) a lid having open and closed positions to open and close off the access door opening, respectively; 4) an edge member joined to the edge of the lid to extend around at least a portion of the lip when the lid is in its closed position, the edge member having a gap formed therein so that the lip extends above the gap when the lid is in its closed position, as recited in Applicant's amended claim 1.

In addition, as is very well known, references may not be combined under 35 U.S.C. § 103 unless the prior art teaches some reason or motivation for making the combination. The Examiner is reminded that such motivation must come from within the references themselves, not from Applicant's claims. The references cited by the Examiner vary in complexity and application, but also are unrelated to and have no need of one another. More importantly, the references themselves do not provide for the suggested combinations, and one of skill in the art would not be motivated to make the proposed combinations.

For example, the Smeester reference discloses a complex device for feeding bison which employs various moving and intricate parts including a central processing unit, printer, power generator, feed dispensing motors, remote transponders, etc. Considering this complexity, the device is clearly not meant to be placed in wooded areas for long periods of time, continually being exposed to the elements which might damage, or make inoperable, the components. Furthermore, there would be no motivation for a breathable lid to allow the contents to be ventilated and to protect the contents from rain and other elements, as this device would not be exposed to such conditions for long periods of time which would motivate one to make such a modification. Regarding the O'Malley reference which the Examiner seeks to use to show

motivation for employing skids, nothing in Smeester suggests that such a construction would be desirable. Considering the complexity and the weight of the Smeester device, it would be impractical to pull such a heavy machine on skids; as such, Smeester goes into great detail to describe the wheeled chassis that is employed to transport the machine to its desired location. In short, there would be no benefit and perhaps even significant drawbacks, in combining Smeester with the other cited references to realize Applicant's claims.

Regarding the Dubbert and Hoffman references, these references are not suitable for feeding animals, and as such, would not provide the requisite motivation for making a combination. As the Examiner is aware, the references are directed to a silo for storing concrete (Dubbert) and a storage tank for petroleum products (Hoffman). One of skill in the animal feeder art would not be motivated to look to references dealing with concrete silos and storage tanks for petroleum products to make the suggested modification. As stated above, the motivation must come from within the references themselves, not from hindsight after first viewing Applicant's claims.

As such, Applicant respectfully requests that the rejections under § 103 be withdrawn.

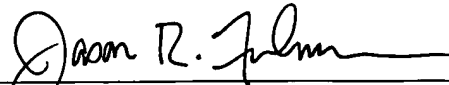
Conclusion

In light of the above amendment and remarks, Applicant respectfully requests consideration and allowance of the currently pending claims.

The claims do not increase the total number of claims beyond twenty (20), and as such, no fee is believed to be due. Should any additional fees under 37 C.F.R. §§ 1.16 to 1.18 be required for any reason relating to the enclosed materials, or should an overpayment be included herein, the Commissioner is authorized to deduct or credit said fees from or to Gardere Wynne Sewell LLP, Deposit Account No. 07-0153. The Examiner is requested to telephone the undersigned for any reason that would advance the application to issue.

Respectfully submitted,

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